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107TH CONGRESS
2D SESSION

S. 2784

[Report No. 107–220]

Making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2002

Mr. REID, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2003, for energy and
6 water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$148,304,000, to remain available until expended.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made

1 eligible for selection by law (but such studies shall not con-
2 stitute a commitment of the Government to construction),
3 \$1,745,102,000, to remain available until expended, of
4 which such sums as are necessary for the Federal share
5 of construction costs for facilities under the Dredged Ma-
6 terial Disposal Facilities program shall be derived from
7 the Harbor Maintenance Trust Fund, as authorized by
8 Public Law 104-303; and of which such sums as are nec-
9 essary pursuant to Public Law 99-662 shall be derived
10 from the Inland Waterways Trust Fund, for one-half of
11 the costs of construction and rehabilitation of inland wa-
12 terways projects, including rehabilitation costs for the
13 Lock and Dam 11, Mississippi River, Iowa; Lock and Dam
14 12, Mississippi River, Iowa; Lock and Dam 24, Mississippi
15 River, Illinois and Missouri; Lock and Dam 3, Mississippi
16 River, Minnesota; and London Locks and Dam, Kanawha
17 River, West Virginia, projects: *Provided*, That using
18 \$2,000,000 of the funds provided herein, the Secretary of
19 the Army, acting through the Chief of Engineers, is di-
20 rected to conduct, at full Federal expense, technical stud-
21 ies of individual ditch systems identified by the State of
22 Hawaii, and to assist the State in diversification by help-
23 ing to define the cost of repairing and maintaining se-
24 lected ditch systems: *Provided further*, That the Secretary
25 of the Army, acting through the Chief of Engineers, is

1 directed to use \$2,000,000 of the funds appropriated here-
2 in to continue construction of the navigation project at
3 Kaumalapau Harbor, Hawaii: *Provided further*, That the
4 Secretary of the Army is directed to use \$5,000,000 of
5 the funds provided herein for Dam safety and Seepage/
6 Stability Correction Program to continue construction of
7 seepage control features at Waterbury Dam, Vermont:
8 *Provided further*, That the Secretary of the Army, acting
9 through the Chief of Engineers, is directed to use
10 \$16,900,000 of the funds appropriated herein to proceed
11 with planning, engineering, design or construction of the
12 following elements of the Levisa and Tug Forks of the
13 Big Sandy River and Upper Cumberland River Project:
14 \$10,400,000 to continue work on the Grundy,
15 Virginia, element of the project;
16 \$500,000 to complete the Buchanan County,
17 Virginia, Detailed Project Report;
18 \$500,000 to continue the Dickenson County,
19 Detailed Project Report;
20 \$5,500,000 for Lower Mingo County, Upper
21 Mingo County, Wayne County, and McDowell Coun-
22 ty, West Virginia:
23 *Provided further*, That the Secretary of the Army, acting
24 through the Chief of Engineers, is directed to continue the
25 Dickenson County Detailed Project Report as generally

1 defined in Plan 4 of the Huntington District Engineer's
2 Draft Supplement to the Section 202 General Plan for
3 Flood Damage Reduction dated April 1997, including all
4 Russell Fork tributary streams within the County and spe-
5 cial considerations as may be appropriate to address the
6 unique relocations and resettlement needs for the flood
7 prone communities within the County: *Provided further,*
8 That the Assistant Secretary of the Army, acting through
9 the Chief of Engineers is directed to proceed with the con-
10 struction of the Dallas Floodway Extension, Texas, in ac-
11 cordance with the Chief of Engineers report dated Decem-
12 ber 7, 1999: *Provided further,* That the Assistant Sec-
13 retary of the Army, acting through the Chief of Engineers
14 is directed to proceed with the construction of the Seward
15 Harbor, Alaska project, in accordance with the Report of
16 the Chief of Engineers dated June 8, 1999 and the eco-
17 nomic justification contained therein: *Provided further,*
18 That the Assistant Secretary of the Army, acting through
19 the Chief of Engineers is directed to proceed with the con-
20 struction of the Wrangell Harbor, Alaska project in ac-
21 cordance with the Chief of Engineer's report dated De-
22 cember 23, 1999: *Provided further,* That, of the funds pro-
23 vided herein, \$3,000,000 shall be made available for the
24 Galena Bank Stabilization Project in Galena, Alaska: *Pro-*
25 *vided further,* That the Secretary of the Army, acting

1 through the Chief of Engineers, is authorized and directed
2 to use \$5,000,000 of Construction, General funding as
3 provided herein for construction of an emergency outlet
4 from Devils Lake, North Dakota, to the Sheyenne River,
5 at an estimated total cost of \$100,000,000, which shall
6 be cost-shared in accordance with section 103 of the Water
7 Resources Development Act of 1986, as amended (33
8 U.S.C. 2213), except that the funds shall not become
9 available unless the Secretary of the Army determines that
10 an emergency (as defined in section 102 of the Robert T.
11 Stafford Disaster Relief and Emergency Assistance Act
12 (42 U.S.C. 5122)) exists with respect to the emergency
13 need for the outlet and reports to Congress that the con-
14 struction is technically sound and environmentally accept-
15 able, and in compliance with the National Environmental
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided fur-*
17 *ther*, That the justification for the emergency outlet shall
18 be fully described, including the analysis of the benefits
19 and costs, in the project plan documents: *Provided further*,
20 That the plans for the emergency outlet shall be reviewed
21 and, to be effective, shall contain assurances provided by
22 the Secretary of State, that the project will not violate the
23 Treaty Between the United States and Great Britain Re-
24 lating to the Boundary Waters Between the United States
25 and Canada, signed at Washington, January 11, 1909 (36

1 Stat. 2448; TS 548) (commonly known as the “Boundary
 2 Waters Treaty of 1909”): *Provided further*, That the Sec-
 3 retary of the Army shall submit the final plans and other
 4 documents for the emergency outlet to Congress: *Provided*
 5 *further*, That no funds made available under this Act or
 6 any other Act for any fiscal year may be used by the Sec-
 7 retary of the Army to carry out the portion of the feasi-
 8 bility study of the Devils Lake Basin, North Dakota, au-
 9 thorized under the Energy and Water Development Ap-
 10 propriations Act, 1993 (Public Law 102–377), that ad-
 11 dresses the needs of the area for stabilized lake levels
 12 through inlet controls, or to otherwise study any facility
 13 or carry out any activity that would permit the transfer
 14 of water from the Missouri River Basin into Devils Lake.

15 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
 16 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
 17 SISSIPPI, MISSOURI, AND TENNESSEE

18 For expenses necessary for prosecuting work of flood
 19 control, rescue work, repair, restoration, or maintenance
 20 of flood control projects threatened or destroyed by flood,
 21 as authorized by law (33 U.S.C. 702a and 702g–1),
 22 \$337,937,000, to remain available until expended.

23 OPERATION AND MAINTENANCE, GENERAL

24 For expenses necessary for the protection, preserva-
 25 tion, operation, maintenance, and care of existing river
 26 and harbor, flood control, and related works, including

1 such sums as may be necessary for the maintenance of
2 harbor channels provided by a State, municipality or other
3 public agency, outside of harbor lines, and serving essen-
4 tial needs of general commerce and navigation; surveys
5 and charting of northern and northwestern lakes and con-
6 necting waters; clearing and straightening channels; and
7 removal of obstructions to navigation, \$1,956,182,000, to
8 remain available until expended, of which such sums as
9 become available in the Harbor Maintenance Trust Fund,
10 pursuant to Public Law 99-662, may be derived from that
11 Fund, and of which such sums as become available from
12 the special account established by the Land and Water
13 Conservation Act of 1965, as amended (16 U.S.C. 460l),
14 may be derived from that account for construction, oper-
15 ation, and maintenance of outdoor recreation facilities:
16 *Provided*, That of funds appropriated herein, for the Intra-
17 coastal Waterway, Delaware River to Chesapeake Bay,
18 Delaware and Maryland, the Secretary of the Army, acting
19 through the Chief of Engineers, is directed to reimburse
20 the State of Delaware for normal operation and mainte-
21 nance costs incurred by the State of Delaware for the SR1
22 Bridge from station 58+00 to station 293+00 between
23 May 12, 1997 and September 30, 2002: *Provided further*,
24 That the Secretary of the Army is directed to use
25 \$3,000,000 of funds appropriated herein to remove and

1 reinstall the docks and causeway, in kind, at Astoria East
2 Boat Basin, Oregon.

3 REGULATORY PROGRAM

4 For expenses necessary for administration of laws
5 pertaining to regulation of navigable waters and wetlands,
6 \$144,252,000, to remain available until expended.

7 FORMERLY UTILIZED SITES REMEDIAL ACTION
8 PROGRAM

9 For expenses necessary to clean up contamination
10 from sites throughout the United States resulting from
11 work performed as part of the Nation's early atomic en-
12 ergy program, \$140,298,000, to remain available until ex-
13 pended.

14 FLOOD CONTROL AND COASTAL EMERGENCIES

15 For expenses necessary for emergency flood control,
16 hurricane response, and emergency shore protection, and
17 related activities, \$20,227,000, to remain available until
18 expended.

19 GENERAL EXPENSES

20 For expenses necessary for general administration
21 and related functions in the Office of the Chief of Engi-
22 neers and offices of the Division Engineers; activities of
23 the Humphreys Engineer Center Support Activity, the In-
24 stitute for Water Resources, and headquarters support
25 functions at the USACE Finance Center, \$155,651,000,

1 to remain available until expended: *Provided*, That no part
2 of any other appropriation provided in title I of this Act
3 shall be available to fund the activities of the Office of
4 the Chief of Engineers or the executive direction and man-
5 agement activities of the division offices: *Provided further*,
6 That none of these funds shall be available to support an
7 Office of Congressional Affairs within the Executive Office
8 of the Chief of Engineers.

9 ADMINISTRATIVE PROVISIONS

10 Appropriations in this title shall be available for offi-
11 cial reception and representation expenses (not to exceed
12 \$5,000); and during the current fiscal year the Revolving
13 Fund, Corps of Engineers, shall be available for purchase
14 (not to exceed 100 for replacement only) and hire of pas-
15 senger motor vehicles.

16 GENERAL PROVISIONS

17 CORPS OF ENGINEERS—CIVIL

18 SEC. 101. Agreements proposed for execution by the
19 Assistant Secretary of the Army for Civil Works or the
20 United States Army Corps of Engineers after the date of
21 the enactment of this Act pursuant to section 4 of the
22 Rivers and Harbor Act of 1915, Public Law 64–291; sec-
23 tion 11 of the River and Harbor Act of 1925, Public Law
24 68–585; the Civil Functions Appropriations Act, 1936,
25 Public Law 75–208; section 215 of the Flood Control Act

1 of 1968, as amended, Public Law 90–483; sections 104,
2 203, and 204 of the Water Resources Development Act
3 of 1986, as amended (Public Law 99–662); section 206
4 of the Water Resources Development Act of 1992, as
5 amended, Public Law 102–580; section 211 of the Water
6 Resources Development Act of 1996, Public Law 104–
7 303, and any other specific project authority, shall be lim-
8 ited to credits and reimbursements per project not to ex-
9 ceed \$10,000,000 in each fiscal year, and total credits and
10 reimbursements for all applicable projects not to exceed
11 \$50,000,000 in each fiscal year.

12 SEC. 102. ST. GEORGES BRIDGE, DELAWARE. None
13 of the funds made available in this Act may be used to
14 carry out any activity relating to closure or removal of
15 the St. Georges Bridge across the Intracoastal Waterway,
16 Delaware River to Chesapeake Bay, Delaware and Mary-
17 land, including a hearing or any other activity relating to
18 preparation of an environmental impact statement con-
19 cerning the closure or removal.

20 SEC. 103. Section 595(h)(1) of Public Law 106–53
21 is amended by striking “\$25,000,000” and inserting in
22 lieu thereof “50,000,000”.

23 SEC. 104. The Secretary of the Army, acting through
24 the Chief of Engineers is directed to increase the use of
25 the private sector in performing planning, engineering and

1 design work for Corps' projects to 40 percent of the plan-
2 ning, engineering and design work conducted by the
3 Corps.

4 SEC. 105. ST. PAUL ISLAND HARBOR, ST. PAUL,
5 ALASKA TECHNICAL CORRECTIONS. Section 101(b)(3) of
6 Public Law 104–303 (the Water Resources Development
7 Act of 1996), (110 Stat. 3667) is amended by—

8 (1) striking “\$18,981,000” and inserting in lieu
9 thereof “\$52,300,000”; and

10 (2) striking “\$12,239,000” and inserting in lieu
11 thereof “\$45,558,000”.

12 SEC. 106. ABIQUIU DAM, NEW MEXICO. Section
13 1112 of Public Law 99–662 (the Water Resources Devel-
14 opment Act of 1986), (100 Stat. 4232) is amended by
15 striking “\$2,700,000” and inserting in lieu thereof
16 “\$10,000,000”.

17 SEC. 107. To accommodate the recent past rapid
18 growth and to minimize impacts to the local community
19 in the developing Las Vegas region, project funds for the
20 Tropicana Flamingo Wash project are authorized for use
21 to build or replace facilities to allow traffic to cross project
22 channels at road crossings. The sponsor is hereby afforded
23 credit towards their share of the total project cost.

24 SEC. 108. The Secretary of the Army may expend
25 funds under normal competitive procedures for rehabilita-

tion of the dredge McFARLAND. The Secretary shall not obligate any funds to place the dredge in ready reserve status.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$34,902,000, to remain available until expended, of which \$11,259,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,326,000, to remain available until expended.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in

1 fulfilling related Federal responsibilities to Native Ameri-
2 cans, and related grants to, and cooperative and other
3 agreements with, State and local governments, Indian
4 tribes, and others, \$816,147,000, to remain available until
5 expended, of which \$36,400,000 shall be available for
6 transfer to the Upper Colorado River Basin Fund and
7 \$34,327,000 shall be available for transfer to the Lower
8 Colorado River Basin Development Fund; of which such
9 amounts as may be necessary may be advanced to the Col-
10 orado River Dam Fund; of which \$4,600,000 shall be for
11 on-reservation water development, feasibility studies, and
12 related administrative costs under Public Law 106–163;
13 (of which not more than 25 percent of the amount pro-
14 vided for drought emergency assistance may be used for
15 financial assistance for the preparation of cooperative
16 drought contingency plans under title II of Public Law
17 102–250;) and of which not more than \$500,000 is for
18 high priority projects which shall be carried out by the
19 Youth Conservation Corps, as authorized by 16 U.S.C.
20 1706: *Provided*, That such transfers may be increased or
21 decreased within the overall appropriation under this
22 heading: *Provided further*, That of the total appropriated,
23 the amount for program activities that can be financed
24 by the Reclamation Fund or the Bureau of Reclamation
25 special fee account established by 16 U.S.C. 460l–6a(i)

1 shall be derived from that Fund or account: *Provided fur-*
 2 *ther*, That funds contributed under 43 U.S.C. 395 are
 3 available until expended for the purposes for which con-
 4 tributed: *Provided further*, That funds advanced under 43
 5 U.S.C. 397a shall be credited to this account and are
 6 available until expended for the same purposes as the
 7 sums appropriated under this heading: *Provided further*,
 8 That funds available for expenditure for the Departmental
 9 Irrigation Drainage Program may be expended by the Bu-
 10 reau of Reclamation for site remediation on a non-reim-
 11 bursable basis: *Provided further*, That section 301 of Pub-
 12 lic Law 102–250, Reclamation States Emergency Drought
 13 Relief Act of 1991, as amended, is amended further by
 14 inserting “2002, and 2003” in lieu of “and 2002”.

15 CENTRAL VALLEY PROJECT RESTORATION FUND

16 For carrying out the programs, projects, plans, and
 17 habitat restoration, improvement, and acquisition provi-
 18 sions of the Central Valley Project Improvement Act,
 19 \$48,904,000, to be derived from such sums as may be col-
 20 lected in the Central Valley Project Restoration Fund pur-
 21 suant to sections 3407(d), 3404(c)(3), 3405(f), and
 22 3406(c)(1) of Public Law 102–575, to remain available
 23 until expended: *Provided*, That the Bureau of Reclamation
 24 is directed to assess and collect the full amount of the
 25 additional mitigation and restoration payments authorized
 26 by section 3407(d) of Public Law 102–575.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out authorized activities that are in accord with the CALFED Bay-Delta Program, including activities that would improve fish and wildlife habitat, water supply reliability, and water quality, consistent with plans to be approved by the Secretary of the Interior, \$0, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$54,870,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed four passenger motor vehicles for replacement only.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.

SEC. 202. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: *Provided*, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

1 SEC. 203. The natural desert terminal lakes program
2 administered by the Bureau of Reclamation shall apply
3 only to Walker and Pyramid Lakes in the State of Nevada.

4 SEC. 204. The Commissioner of the Bureau of Rec-
5 lamation is directed to increase the use of the private sec-
6 tor in performing planning, engineering and design work
7 for Bureau of Reclamation's projects to 10 percent in fis-
8 cal year 2003, and in each subsequent year until the level
9 of work is at least 40 percent for the planning, engineering
10 and design work conducted by the Bureau of Reclamation.

11 SEC. 205. NORTH CENTRAL MONTANA RURAL
12 WATER SUPPLY. Using previously appropriated funds, the
13 Bureau is directed to undertake activities related to the
14 development of the North Central Montana Rural Water
15 Supply system. Such sums shall remain available, without
16 fiscal year limitation, until expended.

17 SEC. 206. Section 8 of Public Law 104–298 (the
18 Water Desalination Act of 1996), (110 Stat. 3624) is
19 amended further by—

20 (1) in paragraph (a) by striking “2002” and in-
21 serting in lieu thereof “2004”; and

22 (2) in paragraph (b) by striking “2002” and in-
23 serting in lieu thereof “2004”.

24 SEC. 207. (a) None of the funds appropriated or oth-
25 erwise made available by this Act may be used to deter-

1 mine the final point of discharge for the interceptor drain
2 for the San Luis Unit until development by the Secretary
3 of the Interior and the State of California of a plan, which
4 shall conform to the water quality standards of the State
5 of California as approved by the Administrator of the En-
6 vironmental Protection Agency, to minimize any detri-
7 mental effect of the San Luis drainage waters.

8 (b) The costs of the Kesterson Reservoir Cleanup
9 Program and the costs of the San Joaquin Valley Drain-
10 age Program shall be classified by the Secretary of the
11 Interior as reimbursable or nonreimbursable and collected
12 until fully repaid pursuant to the “Cleanup Program—
13 Alternative Repayment Plan” and the “SJVDP—Alter-
14 native Repayment Plan” described in the report entitled
15 “Repayment Report, Kesterson Reservoir Cleanup Pro-
16 gram and San Joaquin Valley Drainage Program, Feb-
17 ruary 1995”, prepared by the Department of the Interior,
18 Bureau of Reclamation. Any future obligations of funds
19 by the United States relating to, or providing for, drainage
20 service or drainage studies for the San Luis Unit shall
21 be fully reimbursable by San Luis Unit beneficiaries of
22 such service or studies pursuant to Federal reclamation
23 law.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$815,306,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, \$176,000,000, to remain available until expended.

1 URANIUM FACILITIES MAINTENANCE AND REMEDIATION

2 (INCLUDING TRANSFER OF FUNDS)

3 For necessary expenses to maintain, decontaminate,
4 decommission, and otherwise remediate uranium proc-
5 essing facilities, \$471,154,000, of which \$334,523,000
6 shall be derived from the Uranium Enrichment Decon-
7 tamination and Decommissioning Fund, all of which shall
8 remain available until expended.

9 SCIENCE

10 For Department of Energy expenses including the
11 purchase, construction and acquisition of plant and capital
12 equipment, and other expenses necessary for science ac-
13 tivities in carrying out the purposes of the Department
14 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
15 cluding the acquisition or condemnation of any real prop-
16 erty or facility or for plant or facility acquisition, construc-
17 tion, or expansion, and purchase of not to exceed 25 pas-
18 senger motor vehicles for replacement only,
19 \$3,329,456,000, to remain available until expended.

20 NUCLEAR WASTE DISPOSAL

21 For nuclear waste disposal activities to carry out the
22 purposes of Public Law 97-425, as amended, including
23 the acquisition of real property or facility construction or
24 expansion, \$56,000,000, to remain available until ex-
25 pended and to be derived from the Nuclear Waste Fund:

1 *Provided*, That \$2,500,000 shall be provided to the State
2 of Nevada solely for expenditures, other than salaries and
3 expenses of State employees, to conduct scientific over-
4 sight responsibilities and participate in licensing activities
5 pursuant to the Nuclear Waste Policy Act of 1982, Public
6 Law 97-425, as amended: *Provided further*, That
7 \$6,000,000 shall be provided to affected units of local gov-
8 ernments, as defined in Public Law 97-425, to conduct
9 appropriate activities pursuant to the Act: *Provided fur-*
10 *ther*, That the distribution of the funds as determined by
11 the units of local government shall be approved by the De-
12 partment of Energy: *Provided further*, That the funds for
13 the State of Nevada shall be made available solely to the
14 Nevada Division of Emergency Management by direct
15 payment and units of local government by direct payment:
16 *Provided further*, That within 90 days of the completion
17 of each Federal fiscal year, the Nevada Division of Emer-
18 gency Management and the Governor of the State of Ne-
19 vada and each local entity shall provide certification to the
20 Department of Energy that all funds expended from such
21 payments have been expended for activities authorized by
22 Public Law 97-425 and this Act. Failure to provide such
23 certification shall cause such entity to be prohibited from
24 any further funding provided for similar activities: *Pro-*
25 *vided further*, That none of the funds herein appropriated

1 may be: (1) used directly or indirectly to influence legisla-
2 tive action on any matter pending before Congress or a
3 State legislature or for lobbying activity as provided in 18
4 U.S.C. 1913; (2) used for litigation expenses; or (3) used
5 to support multi-State efforts or other coalition building
6 activities inconsistent with the restrictions contained in
7 this Act: *Provided further*, That all proceeds and recoveries
8 by the Secretary in carrying out activities authorized by
9 the Nuclear Waste Policy Act of 1982 in Public Law 97–
10 425, as amended, including but not limited to, any pro-
11 ceeds from the sale of assets, shall be available without
12 further appropriation and shall remain available until ex-
13 pended.

14 DEPARTMENTAL ADMINISTRATION

15 For salaries and expenses of the Department of En-
16 ergy necessary for departmental administration in car-
17 rying out the purposes of the Department of Energy Orga-
18 nization Act (42 U.S.C. 7101 et seq.), including the hire
19 of passenger motor vehicles and official reception and rep-
20 resentation expenses (not to exceed \$35,000),
21 \$235,000,000, to remain available until expended, plus
22 such additional amounts as necessary to cover increases
23 in the estimated amount of cost of work for others not-
24 withstanding the provisions of the Anti-Deficiency Act (31
25 U.S.C. 1511 et seq.): *Provided*, That such increases in cost

1 of work are offset by revenue increases of the same or
 2 greater amount, to remain available until expended: *Pro-*
 3 *vided further*, That moneys received by the Department
 4 for miscellaneous revenues estimated to total
 5 \$137,524,000 in fiscal year 2003 may be retained and
 6 used for operating expenses within this account, and may
 7 remain available until expended, as authorized by section
 8 201 of Public Law 95–238, notwithstanding the provisions
 9 of 31 U.S.C. 3302: *Provided further*, That the sum herein
 10 appropriated shall be reduced by the amount of miscella-
 11 neous revenues received during fiscal year 2003 so as to
 12 result in a final fiscal year 2003 appropriation from the
 13 General Fund estimated at not more than \$97,476,000.

14 OFFICE OF THE INSPECTOR GENERAL

15 For necessary expenses of the Office of the Inspector
 16 General in carrying out the provisions of the Inspector
 17 General Act of 1978, as amended, \$37,671,000, to remain
 18 available until expended.

19 ATOMIC ENERGY DEFENSE ACTIVITIES

20 NATIONAL NUCLEAR SECURITY ADMINISTRATION

21 WEAPONS ACTIVITIES

22 For Department of Energy expenses, including the
 23 purchase, construction and acquisition of plant and capital
 24 equipment and other incidental expenses necessary for
 25 atomic energy defense weapons activities in carrying out

1 the purposes of the Department of Energy Organization
2 Act (42 U.S.C. 7101 et seq.), including the acquisition or
3 condemnation of any real property or any facility or for
4 plant or facility acquisition, construction, or expansion;
5 and the purchase of passenger motor vehicles (not to ex-
6 ceed one for replacement only), \$6,108,959,000, to remain
7 available until expended: *Provided*, That \$16,000,000 is
8 authorized to be appropriated for Project 03–D–103,
9 LANL administration building, Los Alamos National Lab-
10 oratory, Los Alamos, New Mexico: *Provided further*, That
11 \$123,000,000 is authorized to be appropriated for Project
12 01–D–108, Microsystems and engineering sciences appli-
13 cations (MESA), Sandia National Laboratories, Albu-
14 querque, New Mexico.

15 DEFENSE NUCLEAR NONPROLIFERATION

16 For Department of Energy expenses, including the
17 purchase, construction and acquisition of plant and capital
18 equipment and other incidental expenses necessary for
19 atomic energy defense, Defense Nuclear Nonproliferation
20 activities, in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or any facility or for plant or facility acquisition, con-
24 struction, or expansion, \$1,115,630,000, to remain avail-
25 able until expended.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$706,790,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator of the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$12,000), \$335,929,000, to remain available until expended.

OTHER DEFENSE RELATED ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE
MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 24 passenger

1 motor vehicles for replacement only, \$5,406,532,000, to
2 remain available until expended.

3 DEFENSE FACILITIES CLOSURE PROJECTS

4 For expenses of the Department of Energy to accel-
5 erate the closure of defense environmental management
6 sites, including the purchase, construction and acquisition
7 of plant and capital equipment and other necessary ex-
8 penses, \$1,125,314,000, to remain available until ex-
9 pended.

10 DEFENSE ENVIRONMENTAL MANAGEMENT

11 PRIVATIZATION

12 For Department of Energy expenses for privatization
13 projects necessary for atomic energy defense environ-
14 mental management activities authorized by the Depart-
15 ment of Energy Organization Act (42 U.S.C. 7101 et
16 seq.), \$158,399,000, to remain available until expended.

17 OTHER DEFENSE ACTIVITIES

18 For Department of Energy expenses, including the
19 purchase, construction and acquisition of plant and capital
20 equipment and other expenses necessary for atomic energy
21 defense, other defense activities, in carrying out the pur-
22 poses of the Department of Energy Organization Act (42
23 U.S.C. 7101 et seq.), including the acquisition or con-
24 demnation of any real property or any facility or for plant

1 or facility acquisition, construction, or expansion,
2 \$537,664,000, to remain available until expended.

3 DEFENSE NUCLEAR WASTE DISPOSAL

4 For nuclear waste disposal activities to carry out the
5 purposes of Public Law 97-425, as amended, including
6 the acquisition of real property or facility construction or
7 expansion, \$280,000,000, to remain available until ex-
8 pended.

9 POWER MARKETING ADMINISTRATIONS

10 BONNEVILLE POWER ADMINISTRATION FUND

11 Expenditures from the Bonneville Power Administra-
12 tion Fund, established pursuant to Public Law 93-454,
13 are approved for official reception and representation ex-
14 penses in an amount not to exceed \$1,500. During fiscal
15 year 2003, no new direct loan obligations may be made.

16 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
17 ADMINISTRATION

18 For necessary expenses of operation and maintenance
19 of power transmission facilities and of marketing electric
20 power and energy, including transmission wheeling and
21 ancillary services, pursuant to the provisions of section 5
22 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
23 applied to the southeastern power area, \$4,534,000, to re-
24 main available until expended; in addition, notwith-
25 standing the provisions of 31 U.S.C. 3302, up to

1 \$14,463,000 collected by the Southeastern Power Admin-
2 istration pursuant to the Flood Control Act to recover pur-
3 chase power and wheeling expenses shall be credited to
4 this account as offsetting collections, to remain available
5 until expended for the sole purpose of making purchase
6 power and wheeling expenditures.

7 OPERATION AND MAINTENANCE, SOUTHWESTERN
8 POWER ADMINISTRATION

9 For necessary expenses of operation and maintenance
10 of power transmission facilities and of marketing electric
11 power and energy, and for construction and acquisition of
12 transmission lines, substations and appurtenant facilities,
13 and for administrative expenses, including official recep-
14 tion and representation expenses in an amount not to ex-
15 ceed \$1,500 in carrying out the provisions of section 5
16 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
17 applied to the southwestern power area, \$27,378,000, to
18 remain available until expended; in addition, notwith-
19 standing the provisions of 31 U.S.C. 3302, not to exceed
20 \$16,455,000 in reimbursements, to remain available until
21 expended: *Provided*, That up to \$1,912,000 collected by
22 the Southwestern Power Administration pursuant to the
23 Flood Control Act to recover purchase power and wheeling
24 expenses shall be credited to this account as offsetting col-
25 lections, to remain available until expended for the sole

1 purpose of making purchase power and wheeling expendi-
2 tures.

3 CONSTRUCTION, REHABILITATION, OPERATION AND
4 MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

5 For carrying out the functions authorized by title III,
6 section 302(a)(1)(E) of the Act of August 4, 1977 (42
7 U.S.C. 7152), and other related activities including con-
8 servation and renewable resources programs as author-
9 ized, including official reception and representation ex-
10 penses in an amount not to exceed \$1,500, \$168,858,000,
11 to remain available until expended, of which \$156,124,000
12 shall be derived from the Department of the Interior Rec-
13 lamation Fund: *Provided*, That of the amount herein ap-
14 propriated, \$6,100,000 is for deposit into the Utah Rec-
15 lamation Mitigation and Conservation Account pursuant
16 to title IV of the Reclamation Projects Authorization and
17 Adjustment Act of 1992: *Provided further*, That up to
18 \$186,124,000 collected by the Western Area Power Ad-
19 ministration pursuant to the Flood Control Act of 1944
20 and the Reclamation Project Act of 1939 to recover pur-
21 chase power and wheeling expenses shall be credited to
22 this account as offsetting collections, to remain available
23 until expended for the sole purpose of making purchase
24 power and wheeling expenditures: *Provided further*, That,
25 of the amounts appropriated, not less than \$400,000 to
26 be spent as described in House Report 107–258 under this

1 heading shall be nonreimbursable: *Provided further*, That,
 2 of the amount appropriated for corridor review and envi-
 3 ronmental review required for the construction of a 230
 4 kv transmission line between Belfield and Hettinger, not
 5 less than \$200,000 shall be provided for corridor review
 6 and environmental review for the construction of a high
 7 voltage line in Western North Dakota that would facilitate
 8 the upgrade of the Miles City DC tie.

9 FALCON AND AMISTAD OPERATING AND MAINTENANCE
 10 FUND

11 For operation, maintenance, and emergency costs for
 12 the hydroelectric facilities at the Falcon and Amistad
 13 Dams, \$2,734,000, to remain available until expended,
 14 and to be derived from the Falcon and Amistad Operating
 15 and Maintenance Fund of the Western Area Power Ad-
 16 ministration, as provided in section 423 of the Foreign
 17 Relations Authorization Act, Fiscal Years 1994 and 1995.

18 FEDERAL ENERGY REGULATORY COMMISSION
 19 SALARIES AND EXPENSES

20 For necessary expenses of the Federal Energy Regu-
 21 latory Commission to carry out the provisions of the De-
 22 partment of Energy Organization Act (42 U.S.C. 7101 et
 23 seq.), including services as authorized by 5 U.S.C. 3109,
 24 the hire of passenger motor vehicles, and official reception
 25 and representation expenses (not to exceed \$3,000),

1 \$192,000,000, to remain available until expended: *Pro-*
2 *vided*, That notwithstanding any other provision of law,
3 not to exceed \$192,000,000 of revenues from fees and an-
4 nual charges, and other services and collections in fiscal
5 year 2003 shall be retained and used for necessary ex-
6 penses in this account, and shall remain available until
7 expended: *Provided further*, That the sum herein appro-
8 priated from the General Fund shall be reduced as reve-
9 nues are received during fiscal year 2003 so as to result
10 in a final fiscal year 2003 appropriation from the General
11 Fund estimated at not more than \$0.

12 GENERAL PROVISIONS

13 DEPARTMENT OF ENERGY

14 SEC. 301. (a) None of the funds appropriated by this
15 Act may be used to award a management and operating
16 contract unless such contract is awarded using competitive
17 procedures or the Secretary of Energy grants, on a case-
18 by-case basis, a waiver to allow for such a deviation. The
19 Secretary may not delegate the authority to grant such
20 a waiver.

21 (b) At least 60 days before a contract award, amend-
22 ment, or modification for which the Secretary intends to
23 grant such a waiver, the Secretary shall submit to the
24 Subcommittees on Energy and Water Development of the
25 Committees on Appropriations of the House of Represent-

1 atives and the Senate a report notifying the subcommit-
2 tees of the waiver and setting forth the reasons for the
3 waiver.

4 SEC. 302. None of the funds appropriated by this Act
5 may be used to—

6 (1) develop or implement a workforce restruc-
7 turing plan that covers employees of the Department
8 of Energy; or

9 (2) provide enhanced severance payments or
10 other benefits for employees of the Department of
11 Energy,

12 under section 3161 of the National Defense Authorization
13 Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat.
14 2644; 42 U.S.C. 7274h).

15 SEC. 303. None of the funds appropriated by this Act
16 may be used to augment the \$22,965,000 made available
17 for obligation by this Act for severance payments and
18 other benefits and community assistance grants under sec-
19 tion 3161 of the National Defense Authorization Act for
20 Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644;
21 42 U.S.C. 7274h) unless the Department of Energy sub-
22 mits a reprogramming request subject to approval by the
23 appropriate Congressional committees.

24 SEC. 304. None of the funds appropriated by this Act
25 may be used to prepare or initiate Requests For Proposals

1 (RFPs) for a program if the program has not been funded
2 by Congress.

3 (TRANSFERS OF UNEXPENDED BALANCES)

4 SEC. 305. The unexpended balances of prior appro-
5 priations provided for activities in this Act may be trans-
6 ferred to appropriation accounts for such activities estab-
7 lished pursuant to this title. Balances so transferred may
8 be merged with funds in the applicable established ac-
9 counts and thereafter may be accounted for as one fund
10 for the same time period as originally enacted.

11 SEC. 306. None of the funds in this Act may be used
12 to dispose of transuranic waste in the Waste Isolation
13 Pilot Plant which contains concentrations of plutonium in
14 excess of 20 percent by weight for the aggregate of any
15 material category on the date of enactment of this Act,
16 or is generated after such date. For the purposes of this
17 section, the material categories of transuranic waste at the
18 Rocky Flats Environmental Technology Site include: (1)
19 ash residues; (2) salt residues; (3) wet residues; (4) direct
20 repackaged residues; and (5) scrub alloy as referenced in
21 the "Final Environmental Impact Statement on Manage-
22 ment of Certain Plutonium Residues and Scrub Alloy
23 Stored at the Rocky Flats Environmental Technology
24 Site".

25 SEC. 307. The Administrator of the National Nuclear
26 Security Administration may authorize the plant manager

1 of a covered nuclear weapons production plant to engage
2 in research, development, and demonstration activities
3 with respect to the engineering and manufacturing capa-
4 bilities at such plant in order to maintain and enhance
5 such capabilities at such plant: *Provided*, That of the
6 amount allocated to a covered nuclear weapons production
7 plant each fiscal year from amounts available to the De-
8 partment of Energy for such fiscal year for national secu-
9 rity programs, not more than an amount equal to 2 per-
10 cent of such amount may be used for these activities: *Pro-*
11 *vided further*, That for purposes of this section, the term
12 “covered nuclear weapons production plant” means the
13 following:

14 (1) The Kansas City Plant, Kansas City, Mis-
15 souri.

16 (2) The Y-12 Plant, Oak Ridge, Tennessee.

17 (3) The Pantex Plant, Amarillo, Texas.

18 (4) The Savannah River Plant, South Carolina.

19 SEC. 308. The Administrator of the National Nuclear
20 Security Administration may authorize the manager of the
21 Nevada Operations Office to engage in research, develop-
22 ment, and demonstration activities with respect to the de-
23 velopment, test, and evaluation capabilities necessary for
24 operations and readiness of the Nevada Test Site: *Pro-*
25 *vided*, That of the amount allocated to the Nevada Oper-

ations Office each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs at the Nevada Test Site, not more than an amount equal to 2 percent of such amount may be used for these activities.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$74,400,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$19,000,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, notwithstanding section 382N of said Act, \$15,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$50,000,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$578,184,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$24,900,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections esti-

1 mated at \$520,087,000 in fiscal year 2003 shall be re-
2 tained and used for necessary salaries and expenses in this
3 account, notwithstanding 31 U.S.C. 3302, and shall re-
4 main available until expended: *Provided further*, That the
5 sum herein appropriated shall be reduced by the amount
6 of revenues received during fiscal year 2003 so as to result
7 in a final fiscal year 2003 appropriation estimated at not
8 more than \$58,097,000.

9 OFFICE OF INSPECTOR GENERAL

10 For necessary expenses of the Office of Inspector
11 General in carrying out the provisions of the Inspector
12 General Act of 1978, as amended, \$6,800,000, to remain
13 available until expended: *Provided*, That revenues from li-
14 censing fees, inspection services, and other services and
15 collections estimated at \$6,392,000 in fiscal year 2003
16 shall be retained and be available until expended, for nec-
17 essary salaries and expenses in this account notwith-
18 standing 31 U.S.C. 3302: *Provided further*, That the sum
19 herein appropriated shall be reduced by the amount of rev-
20 enues received during fiscal year 2003 so as to result in
21 a final fiscal year 2003 appropriation estimated at not
22 more than \$408,000.

1 NUCLEAR WASTE TECHNICAL REVIEW BOARD

2 SALARIES AND EXPENSES

3 For necessary expenses of the Nuclear Waste Tech-
4 nical Review Board, as authorized by Public Law 100-
5 203, section 5051, \$3,200,000, to be derived from the Nu-
6 clear Waste Fund, and to remain available until expended.

7 TITLE V

8 GENERAL PROVISIONS

9 SEC. 501. None of the funds appropriated by this Act
10 may be used in any way, directly or indirectly, to influence
11 congressional action on any legislation or appropriation
12 matters pending before Congress, other than to commu-
13 nicate to Members of Congress as described in section
14 1913 of title 18, United States Code.

15 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
16 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
17 gress that, to the greatest extent practicable, all equip-
18 ment and products purchased with funds made available
19 in this Act should be American-made.

20 (b) NOTICE REQUIREMENT.—In providing financial
21 assistance to, or entering into any contract with, any enti-
22 ty using funds made available in this Act, the head of each
23 Federal agency, to the greatest extent practicable, shall
24 provide to such entity a notice describing the statement
25 made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS

FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. Section 309 of Title III—Denali Commission of Division C—Other Matters of Public Law 105–277, as amended, is further amended by striking “2003” and inserting in lieu thereof “thereafter”.

This Act may be cited as the “Energy and Water Development Appropriations Act, 2003”.

Calendar No. 514

107TH CONGRESS
2D SESSION

S. 2784

[Report No. 107-220]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2003, and for other purposes.

JULY 24, 2002

Read twice and placed on the calendar